

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, sections 5 to 12, the Iowa Finance Authority hereby amends Chapter 32, “Iowa Jobs Program,” Iowa Administrative Code.

The purpose of these amendments is to implement 2009 Iowa Acts, Senate File 376, sections 5 to 12, by amending rule 265—32.8(16,83GA,SF376), relating to grant awards, and rule 265—32.9(16,83GA,SF376), relating to the administration of awards.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that the normal notice and public participation process would result in unnecessary expense and delays in the Program, which is designed to provide disaster relief and economic stimulus. The Authority has also submitted a Notice of Intended Action for these amendments, which is published as **ARC 8454B** herein to allow for public comment.

The Authority finds that adoption of these amendments confers a benefit on the public in that these rules promote disaster recovery and economic stimulus and ease and speed the administration of the Program. The Authority finds that these amendments should be implemented as soon as feasible in order to facilitate the awarding of grants under the Program and to avoid unnecessary expense and delays. Furthermore, 2009 Iowa Acts, Senate File 376, section 12, specifically provides for emergency rule making. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(1) and (2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on December 9, 2009.

These amendments became effective December 14, 2009.

These amendments are intended to implement Iowa Code section 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, sections 5 to 12.

The following amendments are adopted.

ITEM 1. Amend rule 265—32.8(16,83GA,SF376) as follows:

265—32.8(16,83GA,SF376) Grant awards. The Iowa jobs board may fund a component of a proposed project if the entire project does not qualify for funding. The board shall review awards made to ensure geographic diversity. In order to promote geographic diversity, the board may defer grant decisions on applications from areas which have received previous grant awards to allow applications from other parts of the state to be considered. In the event that a competitive grant recipient, prior to execution of an Iowa jobs grant agreement, is awarded a federal grant for its project, in whole or in part, which federal grant, or the possibility thereof, was not disclosed as part of the recipient’s application, the board may withdraw all or part of the Iowa jobs program grant.

ITEM 2. Amend rule 265—32.9(16,83GA,SF376) as follows:

265—32.9(16,83GA,SF376) Administration of awards.

32.9(1) A grant agreement shall be executed between successful applicants (under both the competitive and noncompetitive grant programs) and the Iowa jobs board. These rules and applicable state laws and regulations shall be part of the contract. The board reserves the right to negotiate wage rates as well as other terms and conditions of the contract.

32.9(2) Grant agreement.

a. Following the board’s determination that a competitive grant application should be approved, authority staff shall propose a draft grant agreement to the recipient. Within 30 days of either transmission of the proposed grant agreement to the recipient or transmission of notice of how the proposed grant agreement may be accessed by the recipient via the Internet, the recipient shall notify the authority

as to whether the recipient will execute the proposed agreement or whether the recipient would prefer to negotiate a different agreement. If the recipient elects to execute the proposed agreement, or if the recipient fails to make a timely election, the authority shall prepare and transmit to the recipient on behalf of the board a final contract for execution.

b. If the recipient elects to negotiate a different agreement, the recipient shall, at the time it makes such election, notify the authority of the requested changes to the proposed grant agreement. The authority shall consider the requested changes and may make such revisions to the proposed agreement as the authority determines to be prudent and in the best interests of the Iowa jobs program and the state of Iowa under the circumstances.

c. Once the authority and the recipient have reached an agreement, the authority shall prepare and transmit to the recipient on behalf of the board a final contract, subject to approval by the board.

d. If the authority and the recipient are unable to reach an agreement, the authority shall, with the board's approval, draft and transmit to the recipient on behalf of the board a final contract consisting of the Iowa jobs board's best and final offer.

~~32.9(2)~~ 32.9(3) The recipient must execute and return the contract to the Iowa jobs board within 45 days of transmittal of the final contract from the Iowa jobs board. Failure to do so may be cause for the Iowa jobs board to terminate the award.

~~32.9(3)~~ 32.9(4) Certain projects may require that permits or clearances be obtained from other state, local, or federal agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

~~32.9(4)~~ 32.9(5) Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

~~32.9(5)~~ 32.9(6) Any substantive change to a contract shall be considered an amendment. Substantive changes include time extensions, budget revisions, and significant alterations that change the scope, location, objectives or scale of an approved project. Amendments must be requested in writing by the recipient and are not considered effective until approved by the Iowa jobs board and confirmed in writing by IFA staff following the procedure specified in the contract between the recipient and the Iowa jobs board.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/13/10.